

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DYSON TECHNOLOGY LIMITED)
and DYSON, INC.,)
Plaintiffs,)
v.) Civil Action No. 05-434-GMS
)
MAYTAG CORPORATION,)
Defendant.)

**MOTION FOR LETTERS OF REQUEST TO THE
JUDICIAL AUTHORITY IN THE UNITED KINGDOM**

TO THE HONORABLE COURT:

NOW APPEARS Dyson Technology Limited and Dyson, Inc. (collectively, "Dyson"), through its undersigned counsel, respectfully moves this court to issue Letters of Request directed to the appropriate judicial authority in the United Kingdom, The Masters' Support Unit, Royal Courts of Justice, Strand London WC2A 2LL, England, for the production of documents from Consumers' Association Research & Testing Centre, including any and all predecessors and successors in interest ("R&TC"). This application is made pursuant to, and in conformity with, The Hague Convention on the Taking of Evidence in Civil or Commercial Matters, T.I.A.S. 7444, 23 Z.U.S.T. 2555, reprinted in 28 U.S.C.A. § 1781 (the "Hague Evidence Convention"), which is in force between the United States and the United Kingdom.

Counsel for Dyson informed counsel for Maytag Corporation ("Maytag") of Dyson's intention to file this Motion on October 3, 2006, and requested that Maytag indicate whether or not it intends to oppose this Motion. Despite repeated requests, Maytag has failed to indicate whether or not it intends to oppose this Motion.

In support of this Motion, Dyson states as follows:

1. As the Court is aware, Dyson seeks an injunction and damages against Maytag related to infringement claims with respect to Dyson's patents of various cleaning apparatuses, dual cyclonic cleaning apparatuses, and dust separation apparatuses. Dyson asserts that Maytag has developed, manufactured, and sold various upright vacuums in the United States which exploit and infringe upon Dyson's patents. Maytag has counter-claimed that Dyson, through various marketing campaigns, has made false and misleading statements as to the suction power, cleaning efficacy, and design and performance capabilities of certain models of Dyson's upright vacuum cleaners.

2. Dyson seeks the aid of this Court in obtaining evidence detailing the suction power, cleaning efficiency, and performance capabilities of Dyson upright vacuums vis-à-vis laboratory testing data, reports, notes, and communications between Maytag and R&TC. It is believed that R&TC has documents in its possession and control that are relevant to the issues at hand. Further, it is undisputed that R&TC has performed testing for or on behalf of Maytag on certain Maytag and/or Dyson upright vacuums.

3. This Court has previously allowed foreign discovery under 28 U.S.C. § 1781 following a showing of the necessity of the discovery. *See Tulip Computers Int'l B.V. v. Dell Computers Corp.*, 254 F.Supp.2d 469, 474 (D.Del. 2003)(relating to foreign discovery pursuant to Hague Evidence Convention).

4. The party from whom documents are hereby requested, i.e., R&TC, has been identified in documents produced by Maytag in this action as an entity which at Maytag's request, performed testing on vacuum cleaners, and which, upon information and belief, may have documents relevant to the performance claims at issue in this litigation.

5. Dyson believes that the documents requested are critical to disproving the allegations made by Maytag that Dyson has made false and misleading statements regarding its upright vacuum cleaners.

THEREFORE, DYSON RESPECTFULLY REQUESTS:

- A. That the Court issue, and cause to be certified by the Clerk of the U.S. District Court for the District of Delaware, Letters of Request addressed to the "Appropriate Judicial Authority in the United Kingdom," The Masters' Support Unit, Royal Courts of Justice, Strand, London WCA 2LL, England;
- B. That said Letters of Request be issued in the form attached herewith requesting the summoning of R&TC by said United Kingdom's proper and usual process for summoning of production of documents.

YOUNG CONAWAY STARGATT &
TAYLOR, LLP



C. Barr Flinn (#4092)
John W. Shaw (#3362)
Adam W. Poff (#3990)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801
Tel: (302) 571-6600
apoff@ycst.com

Dated: October 20, 2006

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Adam W. Poff, hereby certify that on October 20, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Francis DiGiovanni, Esquire
CONNOLLY BOVE LODGE & HUTZ LLP
The Nemours Building – 8th Floor
1007 N. Orange Street
Wilmington, Delaware 19801

I further certify that on October 20, 2006, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following in the manner indicated:

BY E-MAIL AND FEDERAL EXPRESS

Ray L. Weber, Esquire
Laura J. Gentilcore, Esquire
RENNER, KENNER, GREIVE, BOBAK,
TAYLOR & WEBER
400 First National Tower
Akron, OH 44308

Kimball R. Anderson, Esquire
Stephen P. Durchslag, Esquire
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Adam W. Poff

C. Barr Flinn (No. 4092)
John W. Shaw (No. 3362)
Adam W. Poff (No. 3990)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, Delaware 19801
(302) 571-6600
apoff@ycst.com

*Attorneys for Dyson Technology Limited
and Dyson, Inc.*